

**FIVE-YEAR-REVIEW REPORT**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

## TABLE OF CONTENTS

1. FIVE-YEAR-REVIEW SUMMARY.....	3
2. INFORMATION THAT IS IDENTICAL FOR ALL THE RULES.....	5
3. INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES.....	6
4. ANALYSIS OF INDIVIDUAL RULES.....	7
5. ECONOMIC IMPACT STATEMENT (EIS).....	Exhibit 1
6. CURRENT RULES.....	Exhibit 2
7. ENABLING AND RELATED STATUTES.....	Exhibit 3

## **FIVE-YEAR-REVIEW SUMMARY**

The state legislature created the Arizona State Retirement System (ASRS) in 1953 in order to provide defined contribution retirement (defined contribution plan) benefits for state employees and teachers, as well as employees of political subdivisions that elected coverage. The defined contribution plan was closed to new members in 1972. At that time, members of the defined contribution plan who elected to, and all new members, became part of the defined benefit plan. At the end of Fiscal Year 2014-2015 there were approximately 558,136 ASRS members.

The ASRS Board (Board) is appointed by the Governor. The Board consists of nine members who qualify according to A.R.S. § 38-713. The Board is responsible for supervising the administration of the ASRS, including the defined contribution plan, defined benefit plan, long-term disability income plan, and health benefit supplement plan. Investment responsibilities include:

1. Prescribing investment goals, objectives, and policies;
2. Allocating assets to meet investment goals;
3. Adopting specific policy directives for the guidance of investment management;
4. Appointing investment managers;
5. Prescribing investment diversification programs; and
6. Assigning investment responsibilities.

The enabling statutes for the Board are set forth in A.R.S. §§ Title 38, Chapter 5, Articles 1 and 2. The Board currently implements its statutes with rules located at A.A.C. Title 2, Chapter 8. This report covers all seven rules in 2 A.A.C. 8, Article 6 and all seven rules were made by final rulemaking effective March 7, 2006. R2-8-601 was last amended by final rulemaking effective December 5, 2015.

**FIVE-YEAR-REVIEW REPORT**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

- R2-8-601. Definitions
- R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements
- R2-8-603. Petition for Rulemaking
- R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement
- R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact
- R2-8-606. Oral Proceedings
- R2-8-607. Petition for Delayed Effective Date

## INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

The following information is the same for all of the rules and is not restated in the analysis of each rule:

3. **Analysis of effectiveness in achieving the objective**  
With the exception of R2-8-605, the rules are effective in achieving their objectives.
5. **Status of enforcement of the rule**  
With the exception of R2-8-605, the rules are enforced as written.
7. **Analysis of any written criticisms the agency received on the rule**  
No written criticisms were received.
8. **Estimated economic, small business, and consumer impact statement comparison**  
Analysis of the economic impact statement for the rules is included as Exhibit 1.
9. **Analysis of any analyses the agency received regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states**  
No analyses were received.
10. **Whether the agency completed the course of action proposed in the previous Five-year-review Report**  
With the exception of R2-8-605, this analysis is not applicable because the agency did not propose a course of action in the previous five-year-review report.
12. **Determination that the rule is not more stringent than a corresponding federal law**  
There is no corresponding federal law for the rules.
13. **Whether the rule complies with A.R.S. § 41-1037**  
The ASRS does not issue permits or licenses.
14. **Proposed course of action**  
With the exception of R2-8-601, the ASRS plans to amend all the rules by December 2016 to address the issues identified in this report.

## INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES

### **R2-8-601 and R2-8-602**

11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The rule imposes least burden and costs on the public.

### **R2-8-603 through R2-8-607**

11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The rule will impose the least burden and costs on the public when the issues identified in this report are addressed.

### **R2-8-601, R2-8-602, R2-8-606, and R2-8-607**

4. **Analysis of consistency with state and federal statutes and rules**

The rule is consistent with state and federal statutes and rules.

## ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

### R2-8-601. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. § 41-1001

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS is using certain terms throughout its rules.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

14. **Proposed course of action**

The ASRS does not intend to amend this rule at this time.

### R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1029, 41-1091(C)

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS rulemaking records may be viewed at the ASRS offices.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.

### R2-8-603. Petition for Rulemaking

1. **Authorization of the rule by existing statute**

A.R.S. § 41-1033

2. **Objective**

The objective of the rule is to provide notice to the public of how to petition the ASRS to make or amend a rule.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is mostly consistent with state and federal statutes and rules. The rule could be more consistent if subsection (B) reflected that the ASRS must take action on the petition within 60 days pursuant to A.R.S. § 41-1033(A), instead of 30 days.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language in A.R.S. § 41-1033.

**R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement**

1. **Authorization of the rule by existing statute**

A.R.S. § 41-1033

2. **Objective**

The objective of the rule is to provide notice to the public of how to request a review of an ASRS rule or an ASRS substantive policy statement.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is mostly consistent with state and federal statutes and rules. The rule could be more consistent if subsection (B) reflected that the ASRS must take action on the petition within 60 days pursuant to A.R.S. § 41-1033(A), instead of 30 days.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language in A.R.S. § 41-1033.

7. **Estimated economic, small business, and consumer impact statement comparison**

Analysis of the economic impact statement for the rules is included as Exhibit 1.

**R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact**

1. **Authorization of the rule by existing statute**

A.R.S. § 41-1056.01

2. **Objective**



The objective of the rule is to provide notice to the public of how to submit a petition to the ASRS objecting to an ASRS rule based on actual economic impact.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is mostly consistent with state and federal statutes and rules. It could be more consistent by changing “objection” to “petition” to better reflect statutory language.

Also, subsection (A)(3) needs to reflect that pursuant to A.R.S. § 41-1056.01(A)(3), a person may object to a rule if the person believes that the agency did not select the least burdensome and costly alternative.

5. **Status of enforcement of the rule**

The rule is enforced to the extent it is consistent with statute.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.

10. **Whether the agency completed the course of action proposed in the previous Five-year-review Report**

No. The agency did not complete the proposed course of action due to the rulemaking moratorium and staff resources prioritized to other projects.

**R2-8-606. Oral Proceedings**

1. **Authorization of the rule by existing statute**

A.R.S. § 41-1023(C)

2. **Objective**

The objective of the rule is to provide notice to the public of to request an oral proceeding.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language. The rule could also be clearer by reflecting that a “person” may represent any “entity,” including another individual at an oral proceeding.

**R2-8-607.                      Petition for Delayed Effective Date**

**1.     Authorization of the rule by existing statute**

A.R.S. § 41-1032

**2.     Objective**

The objective of the rule is to provide notice to the public of how to request a delayed effective date for an ASRS rule.

**6.     Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.